

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

RICHARD JAMES DIDZUN, an individual;
IAN McANDREWS and KATE
McANDREWS, individually and for their
marital community; on behalf of themselves
and persons similarly situated;

Plaintiffs,

v.

THE HOME DEPOT, INC., a foreign
corporation, and HOME DEPOT USA,
INC.;

Defendants.

No. 2:21-cv-01540 RSL

**ORDER GRANTING
PRELIMINARY APPROVAL**

1 Before the Court is the Plaintiffs' Motion for Preliminary Approval. Dkt. #43. The Court
2 has considered the Preliminary Approval Motion, together with its supporting declarations and
3 exhibits, as well as the Parties' Joint Status Report of July 15, 2024. Dkt. #49.

4 This Court has also reviewed the Parties' Joint Stipulation of Class Action Settlement
5 and Modification to Joint Stipulation of Settlement (collectively, the "Agreement"), as well as
6 the files, records, and proceedings to date in this matter.¹

7 Based on this Court's review of the Agreement and all of the files, records, and
8 proceedings herein, the Court concludes, upon preliminary examination, that the Agreement and
9 Settlement appear fair, reasonable, and adequate, and within the range of reasonableness for
10 preliminary settlement approval, and that a hearing should and will be held after notice to the
11 Class (as defined in Paragraph A below) to confirm that the Agreement and Settlement are fair,
12 reasonable, and adequate and to determine whether the Settlement should be approved and final
13 judgment entered in this action based upon the Agreement.

14
15 IT IS HEREBY ORDERED THAT:

16 **A. Preliminary Approval of Proposed Settlement.**

17 The Agreement is preliminarily approved as fair, reasonable, and adequate and within
18 the range of reasonableness for preliminary settlement approval. The Court finds that: (a) the
19 Agreement resulted from extensive arm's length negotiations; and (b) the Agreement is
20 sufficient to warrant notice of the Settlement to persons in the Class and a full hearing on the
21 approval of the Settlement.
22

23 The Class is defined as:
24
25

26 ¹ For purposes of this Order, capitalized terms used below shall have the meaning
ascribed to them in the Preliminary Approval Motion, unless otherwise defined.

1 All hourly and salaried non-exempt associate employees of the Home Depot
2 U.S.A., Inc., in the State of Washington between August 22, 2018, and July 25,
3 2024: (1) who were identified as one of the 32,532 associate employees for whom
4 Plaintiff's counsel was provided timekeeping and/or payroll data; but (2) excluding
5 those associates who during this period only held a Specialist or Supervisor position
6 (collectively, "Excluded Positions") and received notice of and were eligible to
7 participate in the settlement of the action titled *Carlson v. Home Depot U.S.A., Inc.,*
8 *et al.*, in the United States District Court for the Western District of Washington,
9 assigned Case Number 2:20-CV-1150. To the extent that, during the Covered
10 Period, an hourly or salaried non-exempt associate was employed in both an
11 Excluded Position and a job not constituting an Excluded Position, that individual
12 will participate in this Settlement only with respect to those Relevant Shifts during
13 which they held a position other than an Excluded Position.

14 **B. Fairness Hearing.**

15 A final approval hearing (the "Fairness Hearing") shall be held before the Court on
16 Thursday, December 19, 2024, to finally determine whether the Agreement is fair, reasonable,
17 and adequate and should be approved. Papers in support of final approval of the Agreement,
18 the incentive award to Plaintiff, and Class Counsel's application for an award of attorneys'
19 fees, costs and expenses (the "Fee Application") shall be filed with the Court according to the
20 schedule set forth in Paragraph K below. The Fairness Hearing and all dates provided for
21 herein may, without further notice to the Class, be continued or adjourned by order of this
22 Court. After the Fairness Hearing, the Court may enter a settlement order and final judgment
23 in accordance with the Agreement that will adjudicate the rights of the Class Members with
24 respect to the Released Claims being settled. The scope of the Released Claims shall be that
25 set forth in §I, ¶FF of the Agreement.

26 **C. Class Notice.**

Class Notice shall be sent within twenty-eight (28) days following entry of this Order.
Simpluris shall serve as Administrator. The Administrator will provide mail notice to persons
in the Class by mail, and when available, by e-mail as well, according to the program described

1 in the Settlement Agreement. Skip tracing shall be performed by the Administrator for all
2 returned mail.

3 **D. Findings Concerning Class Notice.**

4 The Court finds that the foregoing program of Class Notice and the manner of its
5 dissemination is the best practicable notice under the circumstances and is reasonably
6 calculated to apprise the Class of the pendency of this action and their right to object to or
7 exclude themselves from the Class. The Court further finds that the Class Notice program is
8 reasonable, that it constitutes due, adequate, and sufficient notice to all persons entitled to
9 receive notice and that it meets the requirements of due process and Civil Rule 23. The Court
10 hereby approves the Notice in substantially the same form as that attached at Dkt. 49-2 as
11 Exhibit B to the Joint Status Report.
12

13 **E. Administration.**

14 The Court confirms that it is appropriate for the Defendant to provide the information
15 necessary to provide the notice contemplated herein and to administer the settlement, including
16 names, addresses, and personal identifying information.
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18 **F. Exclusion from the Class.**

19 Persons in the Class will have the right to opt out by sending a written request to a
20 designated address within forty-five (45) days after the Notice Mailing Date. All Class
21 Members who do not opt out in accordance with the terms set forth herein will be bound by all
22 determinations and judgments in this action. Exclusion requests must contain the person's
23 name, address, telephone number, and signature, and must include the following statement: "I
24 wish to opt out of the settlement of the class action lawsuit entitled *Didzun, et al. v. The Home*
25 *Depot, Inc., et al.*, Case No. 2:21-CV-1540. I understand and desire to receive no money from
26

1 the *Didzun* Settlement.” The Administrator will retain a copy of all requests for exclusion. Not
2 later than 15 days from the exclusion deadline, the Administrator shall file with the Court a
3 declaration that provides copies of all exclusion requests received, regardless whether they
4 satisfy all of the requirements of this paragraph.

5 **G. Objections and Appearances.**

6 Any person in the Class who has not timely submitted a valid request for exclusion
7 from the Class, and thus is a Class Member, may object to the proposed Settlement and appear
8 at the Fairness Hearing to argue that the proposed Settlement should not be approved and/or to
9 oppose the application of Class Counsel for an award of attorneys’ fees and the incentive award
10 to the Class Representatives.
11

12 1. In order to object to the Settlement, a Class member must make any objection
13 in writing and file it with the Court and serve on all Parties not later than
14 forty-five (45) days after the Notice Mailing Date. The objection must
15 include the person’s name, address, telephone number, and signature, and
16 must set forth, in clear and concise terms, the legal and factual arguments
17 supporting the objection. Any objections that are not timely filed and mailed
18 may be forever barred.
19

20 2. In order to speak at the hearing, a Class member also must file with the Court
21 and serve on all Parties a Notice of Intention to Appear at the Fairness
22 Hearing with the Court no later than fourteen (14) days before the Fairness
23 Hearing. The Notice must include the person’s name, address, telephone
24 number, and signature.
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H. Further Papers In Support Of Settlement And Fee Application.

Class Counsel's Motion for Attorneys' Fees and the Motion for Final Approval shall be filed as provided in Paragraph K.

I. Effect of Failure to Approve the Agreement.

In the event the Agreement is not approved by the Court, or for any reason the Parties fail to obtain a Final Judgment as contemplated in the Agreement, or the Agreement is terminated pursuant to its terms for any reason, then the following shall apply:

1. All orders and findings entered in connection with the Agreement shall become null and void and have no further force and effect, shall not be used or referred to for any purposes whatsoever, and shall not be admissible or discoverable in any other proceeding;
2. The Agreement and its existence shall be inadmissible to establish any fact or any alleged liability of the Defendant for the matters alleged in this action or for any other purpose; and
3. Nothing contained in this Order is, or may be construed as, any admission or concession by or against the Defendant or Plaintiffs on any point of fact or law.

J. Stay/Bar Of Other Proceedings.

All proceedings in this action are stayed until further order of the Court, except as may be necessary to implement the terms of the Settlement. Pending final determination of whether the Settlement should be approved, Plaintiffs, all persons in the Class and persons purporting to act on their behalf are enjoined from commencing or prosecuting (either directly, representatively, or in any other capacity) against any of the Released Parties any

1 action, arbitration, or proceeding in any court, arbitration forum, or tribunal asserting any of
2 the Released Claims as defined in the Agreement.

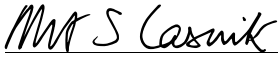
3 **K. Timeline.**

ACTION	DATE
Preliminary Approval Order Entered	July 25, 2024
Notice Mailing Date	August 22, 2024
Plaintiffs' Counsel's Fee Motion Submitted	September 20, 2024
Final Approval Brief Submitted	September 20, 2024
Exclusion/Objection Deadline	October 22, 2024
Administrator's Report of Exclusion Requests	November 7, 2024
Responses to Objections Submitted	November 22, 2024
Final Approval Hearing / Noting Date	December 19, 2024

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17 The Fairness Hearing is scheduled on Thursday, December 19, 2024, at 11:00 am in
18 Courtroom 15128 at the U.S. Courthouse in Seattle, Washington.

19
20 **IT IS SO ORDERED.**

21 Dated this 25th day of July, 2024.

22
23 
24 Robert S. Lasnik
25 United States District Judge
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